



PLANNING COMMISSION STAFF REPORT SEPTEMBER 14, 2006

Project: GARG SLOPE REPAIR- (PLN2006-00187)

Proposal: To consider a Preliminary Grading Plan for slope repair and stabilization

Recommendation: Approve based on findings and subject to conditions of approval

Location: 809 – 835 Yakima Drive in the Warm Springs Planning Area.
APNs 519-1661-020-00, 519-1661-022-00
(See aerial photo next page)

Area: Western portion of 809 & 835 Yakima Drive totaling about two acres

People: Pradeep (Bob) Garg, Owner and Applicant
Chuck Ludwig, Fremont Engineers, Engineer
Joel Pullen, Staff Planner (510) 494-4436; jpullen@ci.fremont.ca.us

Environmental Review: A Mitigated Negative Declaration has been prepared and circulated for this project.

General Plan: Low-Density Residential, 3 to 5 dwelling units per acre

Zoning: R-1-10 (H-I)—Single Family Residential; Hillside Combining Overlay

EXECUTIVE SUMMARY:

Parcel Map 7792 was subdivided in 2002 with the condition that slope stabilization would occur prior to building permits being issued. This is a proposal to cut approximately 2,400 cubic yards and fill approximately 2,950 cubic yards in order to repair and stabilize the slopes on the western part of the property. A single-family home is under separate staff-level Development Organization review at 809 Yakima Drive. Therefore, the applicant is satisfying the “Condition of Approval” for the map prior to staff issuing a building permit. This project also includes a Vacation of a slope easement extending across the western portion of 809 and 835 Yakima Drive. The slope easement Vacation will be heard by City Council at a subsequent hearing.



Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES:

- North: Intersection of East Warren Avenue and Yakima Drive
- South: Vacant Single-Family Residential Parcel
- East: Single-Family Residences across Yakima Drive
- West: I-680 across East Warren Avenue

BACKGROUND AND PREVIOUS ACTIONS:

In 2002, the Planning Commission approved Mr. Garg's application (PLN2001-00316) for Tentative Parcel Map 7792, which created three lots from one within a 2.2-acre area south of the intersection of East Warren Avenue and Yakima Drive. This was a resubdivision of Tract 3723, Lot 16 from 1976.

Tentative Parcel Map 7792 included a previous Mitigated Negative Declaration, which required certain mitigations related to geology and soils that were integrated into conditions of approval for the subdivision. These read, in relevant part:

1. A Slope Stabilization Plan shall be prepared, approved and implemented prior to approval of issuance of a building permit on the two vacant parcels [now 809 and 827 Yakima Drive]. The entire toe of the slope along East Warren Avenue should be stabilized by over-excavation, and construction of keyways and subdrains.
2. Existing exploratory trenches on all three parcels shall be properly backfilled and compacted. All work shall be completed prior to issuance of building permits.
3. Future development on Parcel 3 [835 Yakima Drive] shall be limited to the area northeast of the existing improvements or supplemental detailed geotechnical investigations shall be completed to demonstrate slope stability of proposed construction areas. Any investigation completed to support the feasibility of construction west of the existing improvements should be reviewed and approved by the City Geotechnical Consultant prior to issuance of any building permit.
4. Detailed, site-specific geotechnical investigations shall be completed for each individual lot prior to issuance of any building permit. Said investigation shall address in detail the engineering properties of potentially expansive earth materials, and appropriate geotechnical engineering design mitigation to address shrink-swell properties of soil and bedrock.

Therefore, the proposed project is implementing a specific mitigation in order to facilitate development in the subdivision. Detailed investigation for 809 Yakima Drive as specified in Mitigation #1 above has been completed. Detailed investigations have not been completed for Parcel 3 [835 Yakima—the original home site]. Furthermore, the property owner has stated to staff that he has no further development plans for parcel 3.

On September 28, 2005, the applicant filed a Development Organization Minor Review application to build a single-family home at 809 Yakima. That application is currently under review, pending approval of this project due to the original parcel map condition that building permits not be issued for the new lots until slope stabilization were completed.

PROJECT DESCRIPTION:

The sloping western portion of the property, as shown on Exhibit "B", would be stabilized by cutting approximately 2,400 cubic yards and filling approximately 2,950 cubic yards, resulting in a net import of 845 cubic yards. The project incorporates appropriate drainage and revegetation methods. See the "Design Analysis" section below for further description of engineering standards related to the project.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Low-density residential, 3 to 5 dwelling units per acre. The proposed project is consistent with the existing General Plan land use designation for the project site because slope repair and stabilization will reduce geologic hazards within a previously approved subdivision. This site is located in an area designated I₁—"Potential Localized Landslides" in the City's General Plan and within an Alquist-Priolo Special Studies Zone. In conformance with the General Plan, the proposed grading will conform to the recommendations of the approved project geotechnical report. The following General Plan Goal and Objective are applicable to the proposed project:

HEALTH AND SAFETY (HS) GOAL 1: Minimum feasible risk to the community from land instability and other non-seismically induced geologic hazards

Analysis: The project, as proposed, will improve the stability of the subject property, reducing the likelihood of slope failure

Objective HS 1.1: Development which responds to and minimizes geologic hazards

Analysis: The slope repair is responding to an existing condition in order to reduce geologic hazards.

HEALTH AND SAFETY (HS) GOAL 2: Minimum feasible risk to residents and property due to seismic activity.

Objective HS 2.1: Development which responds to and minimizes the hazards related to expected seismic activity

Analysis: The slope repair conforms to the recommendations of the project geotechnical report by maintaining safety with regard to seismic activity.

Zoning Regulations:

As set forth in Sections 8-21822.1 (Hillside Combining Overlay District) and 8-24108 et seq. (Grading Permit Review) of the Fremont Municipal Code (FMC), a slope repair is permitted to be undertaken in the City of Fremont subject to approval of a Preliminary Grading Plan by the Planning Commission.

In accordance with FMC 8-21822.1(n), "exterior grading shall be accomplished using slopes no greater than three horizontal to one vertical (3:1)." The applicant is proposing a slope of less than 3:1, which complies with this requirement.

Design Analysis:

Easements:

Slope Easement: The applicant is proposing to vacate an existing slope easement that was granted to the City from Glenmoor Homes. The purpose of the easement was to facilitate the construction of East Warren Avenue. In November 2001, the City Council approved the abandonment of a portion of the

slope easement in order to facilitate a 3-lot subdivision, which was subsequently approved in November 2002. The applicant now proposes vacation of the remaining slope easement, which covers portions of Parcel 1 and Parcel 3 along East Warren Avenue. The easement abandonment will be considered under the purview of City Council at a subsequent public hearing.

Private Sanitary Sewer Easement: A private sanitary sewer easement, along the East Warren Avenue frontage of Parcel 1, was created for the benefit of Parcel 3 when Parcel Map 7792 was recorded. The intent of the easement was to facilitate potential future development on Parcel 3, west of the existing house. There are no private sewer facilities in the easement and the applicant currently owns both Parcel 1 and Parcel 3. The proposed slope stabilization encompasses the entire sanitary sewer easement.

Staff is concerned about the potential for future disturbance of the slope repair above East Warren Avenue, especially if the owner of Parcel 3 tries to install a sewer line in the easement. As a condition of the Preliminary Grading Plan, the property owner has agreed to quit claim the existing private sanitary sewer easement.

Grading & Drainage:

The slope stabilization project covers the western portions of Parcel 1 and Parcel 3 of Parcel Map 7792, adjacent to East Warren Avenue. Prior to approval of the Tentative Map for Parcel Map 7792, a geologic and geotechnical study was prepared by the applicant's geotechnical engineer. The report was reviewed and approved by the City. The approved report included recommendations regarding stabilizing the slope adjacent to East Warren Avenue. This Preliminary Grading Plan implements the report recommendations.

The proposed grading consists of removing the existing unstable soil on the slope above East Warren Avenue; excavating keyways into stable claystone; installing subdrains (if necessary) in the keyways; and then rebuilding the slope (backfilling) by placing compacted fill in eight inch lifts. The applicant proposes to rebuild the slope at a 3:1 grade, which is the maximum slope permitted in the Hillside Combining District. The project civil engineer estimates total grading to be 5,645 cubic yards (total cut + total fill), which includes 845 cubic yards of imported soil

The project will also excavate and properly backfill the existing, loosely backfilled trenches that were part of the original geotechnical investigation. During construction, the trench backfilling and slope stabilization grading shall be inspected and tested by the project geotechnical engineer. Upon completion of grading the project geotechnical engineer shall submit inspection and testing documentation to the City.

During grading and upon completion of grading, the contractor shall implement best management practices to prevent dust, soil, or other debris from leaving the site and polluting storm water runoff. An erosion and sediment control plan shall be part of the grading permit plans. Upon project completion, the disturbed areas and slopes shall be seeded with native vegetation and covered to facilitate germination and to prevent further erosion.

Environmental Review:

An Initial Study and Draft Mitigated Negative Declaration have been prepared and circulated for this project. The environmental analysis identified concerns regarding potential impacts to Air Quality, Geology and Soils. The Draft Mitigated Negative Declaration includes mitigation measures, which, if

implemented, would reduce the identified impacts to non-significant levels. These mitigation measures have been included as conditions of approval for this project. A more detailed description of the potential impacts is provided within the Initial Study for the project, which is included as an enclosure.

Mitigation measures

The following mitigation measures were included in the Mitigated Negative Declaration:

Mitigation # 1: To mitigate the identified air quality impacts of grading and construction, the applicant shall submit an air quality control plan for Development Organization Review and approval as part of the permit package to ensure the following mitigation measures will be incorporated into the project.

- a. Dust generated on the project shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions;
- b. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage;
- c. Improvement of any impervious or pervious surfaces used for driveways, etc...shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust;
- d. Street sweeping shall be conducted to control dust and dirt tracked from the project site onto surrounding streets; and,
- e. A person shall be designated to oversee the implementation of this dust control program.

Mitigation # 2: The applicant shall implement the slope stabilization plan subject to review and approval by the City of Fremont Development Organization and in accordance with conditions of approval of Tentative Parcel Map (TPM) 7792 prior to approval of further building permits on properties in the project site.

The initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089. The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of eighteen (18) notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on August 31, 2006. *The Argus* published a public hearing notice on August 31, 2006.

ENCLOSURES:

Exhibits:

- Exhibit "A" Mitigated Negative Declaration
- Exhibit "B" Preliminary Grading Plan
- Exhibit "C" Findings and Conditions of Approval

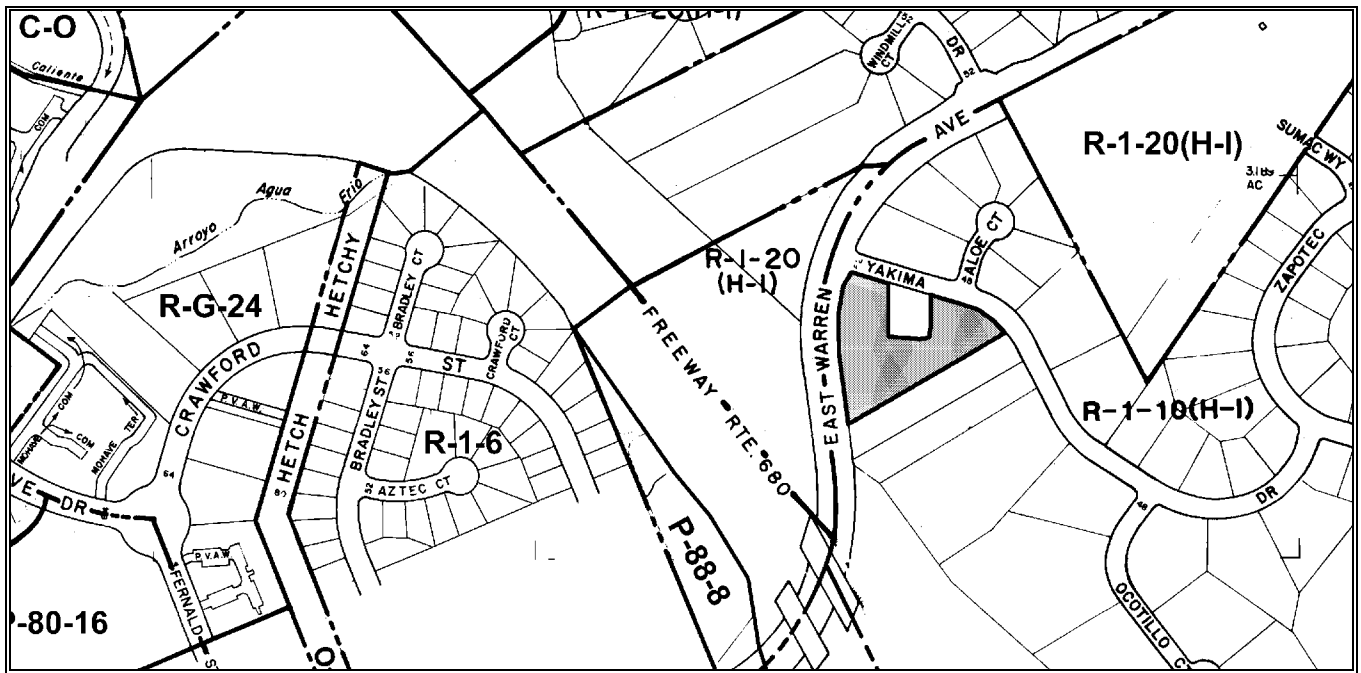
Informational Items:

1. Initial Study
2. Engineer's Statement Supporting Grading at 809 Yakima Drive, Fremont, CA
3. Applicant's Legal Description and Plat of Easement Vacation.
4. Engineer's Statement Supporting Easement Vacation

RECOMMENDATION:

1. Hold public hearing.
2. Find the initial study has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources.
3. Adopt Mitigated Negative Declaration and recommend the use of a Certificate of Fee Exemption, and find these actions reflect the independent judgment of the City of Fremont.
4. Find Preliminary Grading Plan PLN2006-00187 is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals, and policies set forth in the General Plan's Health and Safety Chapter as enumerated within the staff report.
5. Approve Preliminary Grading Plan PLN2006-00187, as shown on Exhibit "B", subject to findings and conditions on Exhibit "C".

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

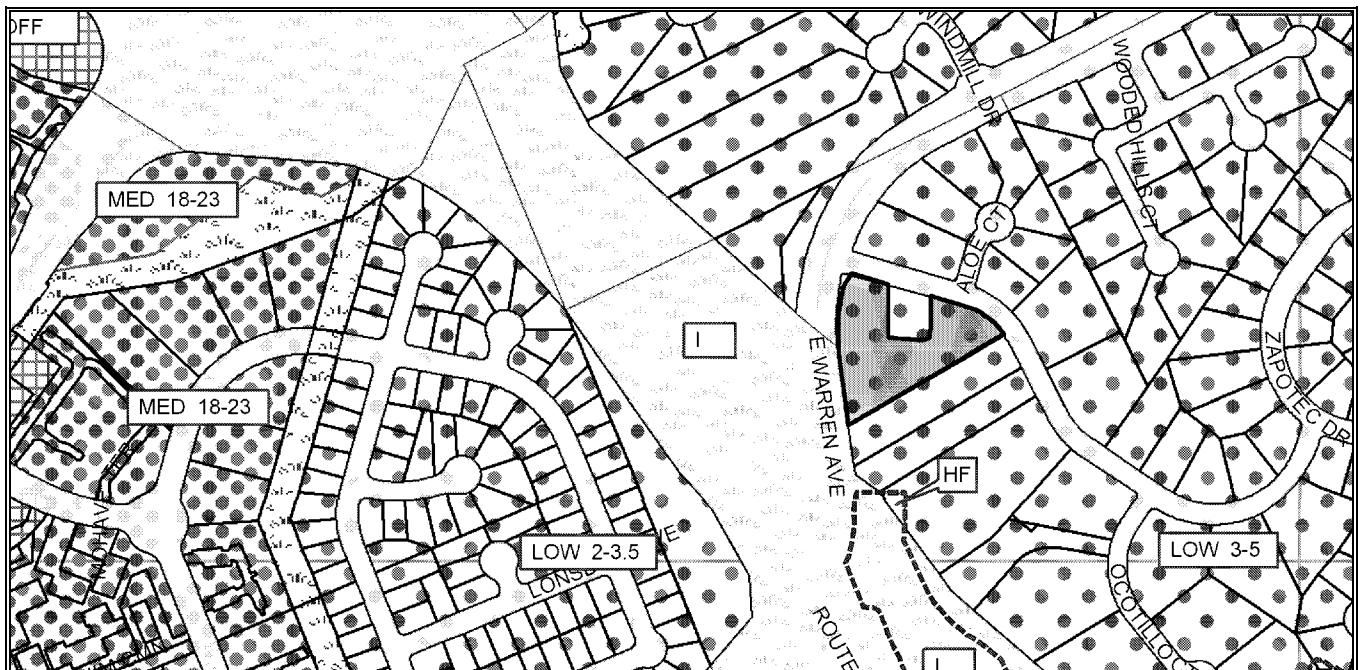


Exhibit “C”
PLN2006-00187—Garg Slope Repair
Findings and Conditions of Approval

Findings:

- a. The proposed project described in the application will not have an appearance, due to the grading, excavation or fill, substantially and negatively different from the existing natural appearance;
- b. The proposed project described in the application will not result in geologic or topographic instability on or near the site--the site stability will be improved through completion of this project, which essentially implements a mitigation of the original subdivision approval;
- c. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. Sufficient conditions of approval are proposed below to require the grading plan to be conducted in accordance with the Zoning Ordinance;
- d. Conformity, where applicable, to special concerns relating to the adopted seismic safety element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology; supplemental data and substantiation of conclusions have been required by the City Engineer upon city review of the reports; and
- e. The proposed project described in the application will not unacceptably affect the health, safety or welfare of adjacent residents or landowners, nor the citizens of Fremont because slope stability, and therefore citizen safety, will be improved.

Conditions:

1. The project shall conform with Exhibit “B” (Preliminary Grading Plan) and all conditions of approval set forth herein.
2. Compliance with the following mitigation measures from the Mitigated Negative Declaration:

Mitigation # 1: To mitigate the identified air quality impacts of grading and construction, the applicant shall submit an air quality control plan for Development Organization Review and approval as part of the permit package to ensure the following mitigation measures will be incorporated into the project.

- a. Dust generated on the project shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions;
- b. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage;
- c. Improvement of any impervious or pervious surfaces used for driveways, etc...shall be completed as soon as is practicable to reduce the time that bare surfaces and soils are exposed. In areas where

construction is delayed for an extended period of time, the ground shall be revegetated to minimize the generation of dust;

- d. Street sweeping shall be conducted to control dust and dirt tracked from the project site onto surrounding streets; and,
- e. A person shall be designated to oversee the implementation of this dust control program.

Mitigation # 2: The applicant shall implement the slope stabilization plan subject to review and approval by the City of Fremont Development Organization and in accordance with conditions of approval of Tentative Parcel Map (TPM) 7792 prior to approval of further building permits on properties in the project site.

- 3. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
- 4. Approval of this Preliminary Grading Plan shall terminate twenty four (24) months from the date of approval by the Planning Commission.
- 5. A grading permit issued for the project shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Title VIII, Chapter 4 of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
- 6. Prior to issuance of the grading permit, the owner shall provide evidence that the existing private sanitary sewer easement shown over Parcel 1 of Parcel Map 7792 has been eliminated. Evidence of the elimination of said easement shall be submitted with the grading permit application and shall be in a form acceptable to the City Engineer.
- 7. The Project Geotechnical Engineer shall be retained to review the final grading plans and specifications. The Project Geotechnical Engineer shall approve the grading plans prior to City approval and issuance of the grading permit.
- 8. The slope stabilization, trench excavation, and trench backfilling shall be completed in accordance with the recommendations contained in the project geotechnical reports. During construction, all corrective site grading shall be inspected and tested by the project geotechnical engineer.
- 9. Prior to final inspection and issuance of the completion certificate by the City Engineer, the project geotechnical engineer shall provide a final report to the City of Fremont. The report shall include final geotechnical inspection and testing documentation. The report shall be accompanied by certification that the constructed improvements conform to the recommendation in the project geotechnical reports.
- 10. Prior to final inspection and issuance of the completion certificate by the City Engineer, the project civil engineer shall provide a record grading plan that show the constructed contours, including any subdrains that were installed during slope stabilization grading.
- 11. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer. An erosion and sediment control plan shall be included as part of the grading plans.

12. The developer is responsible for ensuring that all contractors and subcontractors are aware of all storm water quality measures and implement such measures. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
13. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
14. The applicant shall provide adequate dust control measures at all times during the grading and hauling operations. All trucks hauling export and import materials shall be provided with tarp cover at all times. Spillage of haul materials and mud-tracking on the haul routes shall be prevented at all times. Any violation shall be subject to the suspension of the grading permit.
15. Construction hours will be limited in accordance with Section 8-2205 of the Fremont Municipal Code, and notes to this effect shall be placed on the cover sheet of the construction plans and on an all-weather notice board (format and content specified by City) conspicuously placed adjacent to the most visible right of way for the duration of the construction activity as follows:
 - a. Monday-Friday, 7 a.m. to 7 p.m.
 - b. Saturday & Holiday, 9 a.m. to 6 p.m.
 - c. Sunday, no construction activity allowed